
In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 6.11.2007.

Dalip Singh son of Hakam Singh,
resident of Village Midha, Tehsil Jalalabad (West), District Ferozepur.

...Petitioner.

vs.

The Financial Commissioner (Appeals-1), Punjab,
Civil Secretariat, Chandigarh and another

...Respondents.

Coram: **Hon'ble Mr. Justice K.S.Garewal.**
Hon'ble Mr. Justice R.S.Madan.

Present: Mr.S.C.Khunger, Advocate, for the petitioner.

R.S.Madan, J.

The claim of the petitioner in this writ petition is that after the death of Lambardar Hakam Singh son of Bulla Singh, the District Collector, Ferozepur, ordered the Tehsildar Jalalabad (West) to fill up the post of Lambardar after making due proclamation in the village. In response to the said proclamation, ten applications were received and out of which Ramesh Lal, Dalip Singh, Baldev Singh and Bhajan Lal pursued their applications. The other applicants were remained absent. The antecedents of the applicants were got verified from the police. After preparing the Naqsha Lambardari, the case was sent by the Tehsildar-cum-AC 2nd Grade Jalalabad to S.D.M.-cum-AC 1st Grade Jalalabad with the recommendation to appoint Dalip Singh petitioner as Lambardar of the village. The SDM while sending the case to the District Collector, Ferozepur, recommended the name of

respondent no.2 Bhajan Lal for appointment as Lambardar of the village. The District Collector approved the name of respondent no.2 for appointment as Lambardar of the village vide order dated 13.2.2004 (Annexure P1).

Thereafter, the petitioner filed an appeal against order dated 13.2.2004 before the Commissioner, Ferozepur Division, Ferozepur. The said appeal was accepted and the petitioner was appointed as Lambardar of the village vide order dated 26.8.2004. The order dated 26.8.2004 was challenged by respondent no.2 before the Financial Commissioner (Appeals-1), who accepted the appeal and restored the order of the District Collector and set aside that of the Commissioner and appointed respondent no.2 as Headman of the village vide order dated 14.8.2007. It is the order dated 14.8.2007 which is under challenge before this court.

We have heard the learned counsel for the petitioner.

On behalf of the petitioner, it is contended by the learned counsel for the petitioner that his candidature was rejected merely on the ground that on the date of filing of the application for the village headman a criminal case was registered against him and mere registration of case does not itself bar a person to claim the post of village Headman. Because no finding of guilt have been proved against him. Therefore, he is to be treated at par with any of the candidate who has applied for the post of village Headman. In support of his arguments, he relied upon Gurbachan Singh vs Financial Commissioner (Appeal-I), Punjab 2001 (4) RCR (Civil) 22. In this authority, the Division Bench while dealing with the question of registration of a criminal case against a person whether it is a disqualification for the applicant to apply for the post unless the guilt of

offence is proved against him has held that no adverse inference can be drawn till the finalisation of the matter. This authority is not applicable to the facts of the present case. The case of the petitioner was considered by the District Collector and not rejected on this ground that a criminal case has been registered against him.

It is also not disputed that power to select and appoint a village Headman vests with the Collector. Rule 15 of the Punjab Land Revenue Act which deals with the appointment of Lambardar (Headman of the village) is reproduced as under:-

Rule 15- Matters to be considered in first appointment: In all first appointments of headman, regard shall be had among other matter to:-

- (a) his hereditary claims;*
- (b) the property in the estate possessed by the candidate to secure the recovery of land revenue;*
- (c) services rendered to the State by himself or by his family;*
- (d) his personal influence, character, ability and freedom from indebtedness;*
- (e) the strength and importance of the community from which selection of a headman is to be made;*
- (f) services rendered by himself or by his family in the national movements to secure freedom of India;*

The Collector has considered the merits and demerits of the petitioner as well as that of respondent no.2. He found respondent no.2 more suitable and meritorious than the petitioner. Respondent no.2 is about 26 years whereas the petitioner is of about 55 years. Respondent no.2 owned 4 acres 6 kanals and the petitioner is having 6 acres 2 kanals 1 marlas land in Village Midha. The Collector has also considered that respondent no.2 is 10th pass whereas the petitioner is an illiterate person and he knows only

about signing. It was all these facts by which the Financial Commissioner has restored the order of the Collector appointing respondent no.2 as the Village headman/ Lambardar.

In view of the above, we find that there is no error of jurisdiction or irregularity in the order so as to warrant any interference by this court under Articles 226/227 of the Constitution of India.

No other point has been raised / urged.

Resultantly, this petition is dismissed in limine.

(R.S.Madan)
Judge

6.11.2007.
vs.

(K.S.Garewal)
Judge.